

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

BRIAN CHRISTIAN ALEXANDER,

Plaintiff,

v.

CIVIL ACTION NO. 2:18-cv-01516

SOUTH CENTRAL REGIONAL JAIL,

Defendant.

ORDER

Pending before the Court is Defendants' Jessica Thornhill and Kadee Damron's (collectively, "Defendants") Motion to Dismiss the Complaint and Alternative Motion for Summary Judgment. (ECF No. 46.) By Standing Order entered January 4, 2016, and filed in this case on December 13, 2018, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition ("PF&R"). Magistrate Judge Tinsley entered his PF&R on March 7, 2022, recommending this Court grant the Defendants' Motion and find that there are no genuine issues of material fact such that Defendants be entitled to judgment as a matter of law.¹ (ECF No. 49 at 12.) Specifically, the PF&R recommends the dismissal of Plaintiff's claims because Plaintiff failed to exhaust the available administrative remedies prior to filing his complaint and because the complaint fails to state a plausible constitutional claim upon which relief can be granted. (*See id.* at 6–12.)

¹ The Court notes that there is a pending motion for an extension of time to file objections to the second PF&R in this action, which was filed on September 13, 2021. (*See* ECF No. 40.) As this motion was filed the same day as the PF&R, (ECF No. 41), it is now **MOOT** and shall be, and hereby is, **DENIED** as such.

This Court is not required to review, *de novo* or under any other standard, factual or legal conclusions contained within the PF&R to which no objections were addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and Plaintiff's right to appeal this Court's order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were originally due by March 24, 2022. (ECF No. 49.) To date, no objections have been filed. Accordingly, the Court **ADOPTS** the PF&R to the extent that Plaintiff failed to exhaust the available administrative remedies, (ECF No. 49), **GRANTS** the Defendants' Motion to Dismiss the Complaint and Alternative Motion for Summary Judgment, (ECF No. 46), and **DISMISSES** Plaintiff's claims against Defendants Jessica Thornhill and Kadee Damron. Because this order resolves the remaining claims against the Defendants, this action is hereby **DISMISSED**. The Court further **DIRECTS** the Clerk to remove this matter from the Court's docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 28, 2022



THOMAS E. JOHNSTON, CHIEF JUDGE